## DETAILED ACTION

1. This office action is in response to the reply filed on 6/8/2011.

2. In the reply, the applicant filed remarks.

3. Thus, claims 1-27 are pending for examination.

### *Response to Arguments*

4. Applicant's arguments filed 6/8/2011 have been fully considered but they are not persuasive with respect to the double patenting rejection as discussed below. The rejection is maintained.

5. Applicant's arguments, see Remarks, filed 6/8/2011, discussing "the drag force providing all the energy for movement such that the drag force and a blocking member cause rotation of the binding member" and its application to the 35 USC § 112 and § 102 rejection to Gaba and Carlyon have been fully considered and are persuasive. The rejections of the respective claims have been withdrawn.

### *Double Patenting*

6. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140

F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

7. Claims 1-27 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-33 of U.S. Patent No. 7179244. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims in the present application are not patentably distinct from the those in the '244 patent. Here, "the drag force providing all the energy for movement such that the drag force and a blocking member cause rotation of the binding member" limitation is not patentably distinct from " the drag force and shield facilitating rotation of the binding member" in the '244 patent as "facilitating rotation" can include "providing all of the energy for movement" such that the claims are not patentably distinct.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO 892 Form. USPA 2002/0100868 is pertinent prior art except that it fails to teach or suggest resetting of the binding member.

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW GILBERT whose telephone number is (571)272-7216. The examiner can normally be reached on 8:30 am to 5:00 pm Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Sirmons can be reached on (571)272-4965. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew M. Gilbert/
Examiner, Art Unit 3767

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